

**BOROUGH OF ROCKY HILL
COUNCIL MINUTES
December 18, 2006**

The regular meeting of the Borough Council of the Borough of Rocky Hill was called to order by Mayor George Morren at 7:33 PM. Mayor Morren led the Pledge of Allegiance to the Flag followed by a moment of silent meditation. Mayor Morren stated that the meeting has been properly advertised in the December 17, 2005, issue of the Somerset Messenger Gazette and is being held in accordance with the Open Public Meetings Act.

Roll Call: Mr. Richard Batchelder-present, Mr. Brian Griner-present, Ms. Eileen Uhrik-present, Mr. Jared Witt-present, Mr. Edward Zimmerman-present.

Also present: Deputy Borough Clerk Raymond Whitlock, Borough Attorney Albert Cruz

APPROVAL OF MINUTES

Regular Minutes – December 4, 2006 – Motion was made by Batchelder with a second by Uhrik to approve the minutes as presented. Motion carried on roll call vote – all ayes.

Executive Session Minutes – December 4, 2006 – Motion was made by Batchelder with a second by Zimmerman to approve the minutes as presented. Motion carried on roll call vote – all ayes.

PUBLIC COMMENTS

Hearing no comments/questions, the floor was closed to the public.

STATE POLICE REPORT

None received at this time.

DEPARTMENTAL REPORTS

Tax Collector – November 2006

Court Administrator – November 2006

Treasurer's Report – Budget Balances Report as of 12/14/06

Motion was made by Zimmerman with a second by Witt to accept these reports. Motion carried on roll call vote – all ayes.

APPROVAL OF VOUCHERS TO BE PAID

Motion was made by Witt with a second by Batchelder for the approval of the bill list as presented. Motion carried on roll call vote – all ayes. (Appendix 1).

SPECIAL BUSINESS

Recommendations for Filling of Governing Body Vacancy

Nomination was cast by Griner with a second by Witt for the appointment of Courtney White to the vacant Borough Council seat (thru November 2007) recently vacated by Brad Merritt. Motion to table the motion was made by Zimmerman with a second by Griner. Roll call: Batchelder-nay, Griner-aye, Uhrik-aye, Witt-aye, Zimmerman-aye. Motion carried. Motion was made by Zimmerman with a second by Witt to open the floor to the public for comments/questions. The process followed by Mayor and Council for filling the vacancy was provided to the public by Mayor Morren.

Susan Bristol, 104 Washington St., questioned whether the nominees would be addressing the public.

The nominees addressed the public as follows:

Dave Charlot – not present;

Martin Engelbrecht – former councilman provided his credentials as former council member urging that the candidate selected be willing to work with Council and support the Mayor;

William Holmes – expressed thanks for the nomination; expressed his support of a clean, safe, and secure environment for the residents of the Borough;

Bill O'Brien – expressed thanks for the nomination advising that he stands on his record;

Courtney White – provided an overview of her ongoing volunteerism to the community in various activities and events; expressed her continued commitment to the Borough for the better of the community.

There were no further public comments/questions.

Motion was made by Zimmerman with a second by Griner to revive the tabled motion. Motion carried on roll call vote – all ayes. Motion cast by Griner with a second by Witt to appoint Courtney White was unanimously approved on roll call vote – all ayes. Courtney White appointed to fill the Council member vacancy. *(Administering of oath of office held over until later in the meeting at Ms. White's request)*

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Approval of New Member – Rocky Hill Fire Department – Application received from Manolo de Jesus Donis del Cid for membership with the Fire Department. Deputy Clerk Whitlock advised that the fire department has approved the application. Motion was made by Zimmerman with a second by Griner for approval of the appointment. Roll call: Batchelder-aye, Griner-aye, Uhrik-aye, Witt-aye, Zimmerman-aye.

Public Hearing: Ordinance #12, 2006 – AN ORDINANCE GRANTING MUNICIPAL CONSENT TO NEW JERSEY-AMERICAN WATER COMPANY INC. TO PERMIT THE CONSTRUCTION, EXPANSION, AND MAINTENANCE OF WATER FACILITIES ON PUBLIC PROPERTY IN PORTIONS OF THE BOROUGH OF ROCKY HILL IN ORDER TO FURNISH WATER SERVICE – The ordinance (as filed in the Borough Clerk's Office) was read by title. Proof of publication was provided by the Borough Clerk and was reviewed and found to be in order by Attorney Cruz. Mayor Morren provided an overview of the ordinance. Attorney Cruz advised of non-substantive changes that have been made to the conditions of the ordinance.

Discussion ensued by Council relative to the Pulte/Schafer application and pending litigation against the Borough. Upon questioning by Councilman Zimmerman, Attorney Cruz advised that the water line would not be built if the project is not built. Alternatives for water access to Pulte and Van Horne Park if this consent was not granted was discussed.

Open to public:

Chief Todd Harris of the Rocky Hill Fire Department was present. Chief Harris expressed support of the proposed water main on Princeton Ave. which will subsidize water supply to the residents on Princeton Ave. as well as surrounding areas. Chief Harris provided water usage calculations for fire fighting purposes.

James Mullen, Esq., appearing on behalf of the Pulte Homes advised in response to questioning that the fire hydrants would be installed as the first improvement prior to the construction of the homes.

Amy Gottshalk, 25 Crescent Ave., was provided with water calculations for fire fighting purposes derived by Chief Harris relative to the needs of the Borough now as opposed to after the construction of the development.

Tom Roshetar, 80 Princeton Ave., stated his opposition to the granting of this franchise area. In response to questioning concerning the noticing requirements of the ordinance, Mr. Roshetar was provided with the information pertaining to public notice by Attorney Cruz. Mr. Roshetar expressed concern with the impact on the residents of Princeton Ave., i.e. potential for blasting, re-paving of the road. Mr. Roshetar further questioned the manner in which the original agreement was made with the developer and the agreement that water was to be secured through the park.

Richard Novak, 82 Princeton Ave., requested a response to the concerns expressed by Mr. Roshetar.

Special Consulting Engineer Paul Ferriero retained on behalf of the Borough for the Pulte/Schafer application was present. Engineer Ferriero confirmed Attorney Cruz's account of the agreement made between the developer and the Planning Board; said modification to the agreement for water access having been approved previously by the Planning Board. The standards required for the installation of the water line were provided. It was agreed that assurances as to the repaving and blasting should be given by Pulte Homes prior to any approval.

Richard Moralli, Engineer, appearing on behalf of Pulte Homes, advised that there is an existing sewer and water line along Princeton Ave. and this line would be located vertically above the existing lines. Therefore, blasting should not be required.

In response to questioning by Susan Bristol in regard to the adopted planning board resolution pertaining to the water supply scheme, Engineer Ferriero advised that the resolution adopted provides for an alternate route either on Princeton Avenue or through Van Horne Park further stating that a municipality cannot prohibit a utility from installation on a public street.

Susan Bristol, 104 Washington St., urged the ordinance be tabled or denied for the following reasons: the project does not warrant this permission; due to the pending litigation surrounding the Pulte development approval, action should be tabled; the water delivery scheme is different than the public's understanding of same; issues relative to the Historic District requirements have not been addressed; Council should not be an enabler for a non-compliant application.

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Constance Greiff, 60 Princeton Ave., was provided with information from the approving resolution relative to the number of approved units for the Pulte/Schafer application and the water access requirements language.

Attorney Mullen advised that routes were looked at and recommendation was made by the Borough's Water Superintendent and Engineer for this route same of which was presented to the Planning Board and subsequently approved.

Larry Raffaelli, 122 Washington St., was advised by Engineer Moralli on behalf of Pulte Homes, that the new line would be separate from the existing line on Princeton Ave. and that Engineer Moralli was confident that blasting would not be required. Engineer Moralli stated that if a problem arises, conventional excavation would be used. A pre-blasting survey will be done and they will agree to notification to an expanded area in the event blasting must occur. Attorney Mullen confirmed they will avoid blasting as much as possible.

Marge Yuschak, 55 Washington Ave., was advised in response to her questioning that the Park would be given a choice as to its water source if this ordinance is approved.

Constance Greiff questioned whether there was a need for Department of Environmental Protection or Green Acres approval in regard to the water supplied to the Park. She was advised that there would be no need for approval from Green Acres.

In response to questioning by Councilman Witt, Attorney Mullen advised that installation of the water line would be one of the first improvements installed which would possibly occur in the summer of 2007 after all required entity approvals are obtained. Attorney Cruz advised that in light of the pending litigation, any improvements made by the developer would be at their own risk.

Susan Bristol offered that based on the information provided by the Water Superintendent as to the usage that would be needed for the size of the proposed dwellings, a re-design of the dwellings (smaller) may result in there not being a need for this easement area. Attorney Mullen advised that the overall project warrants the need.

In response to questioning by Councilman Griner, Chief Harris advised that there would be a benefit for fire fighting purposes to the residents on Princeton Ave., Hickory Court, Grove St., and Crescent Ave.

Motion was made by Zimmerman with a second by Batchelder to close the hearing to the public. Motion carried – all ayes.

Motion was made by Councilman Witt to table the ordinance out of respect to the residents and the effect of an approval in light of the pending litigation. Discussion ensued regarding the concerns of the residents. Engineer Ferriero advised that a provision for curb-to-curb paving may be incorporated into the developer's agreement with the Borough. Attorney Mullen agreed with this stipulation. Attorney Mullen further agreed that blasting will be avoided to the extent possible as agreed to earlier in the meeting and same provision will be included in the developer's agreement. Concern about the scope of notice requirements of this ordinance to the area residents was provided by Attorney Cruz. Attorney Cruz also advised that any action taken on this ordinance would not be relative to the pending litigation against the Borough and Pulte Homes. Motion set forth by Witt to table the ordinance failed to carry for lack of a second. Motion to adopt the ordinance with the non-substantive changes ~~and accompanying resolution authorizing the signing of a developer's agreement with Pulte Homes of NJ~~, was made by Batchelder with a second by Uhrík. Roll call: Batchelder-aye, Griner-aye, Uhrík-aye, Witt-nay, Zimmerman-aye. Motion carried.

Administering of Oath of Office to Appointed Borough Council Member – Oath of office was administered to Courtney White, Councilwoman, (term through November 2007) by the Borough Clerk.

Public Hearing: Ordinance #6, 2006 – AN ORDINANCE TO AMEND THE DEVELOPMENT REGULATIONS ORDINANCE OF ROCKY HILL BOROUGH BY ADDING A NEW ARTICLE, ARTICLE 11, "WELLHEAD PROTECTION" - The ordinance (as filed in the Borough Clerk's Office) was read by title. Proofs of publication and service were provided by the Borough Clerk and found to be in order by Attorney Cruz. Special Consulting Engineer Paul Ferriero provided an overview of the ordinance advising the ordinance is based on a model ordinance established by the Department of Environmental Protection (DEP). Map of the wellhead ordinance (attached as Appendix 1 of the ordinance) area was referenced and the criteria for Tiers 1, 2, and 3 were provided by Engineer Ferriero. Pollutant and non-

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pollutant sources in the various tiers was described. Engineer Ferriero advised that single family homes would almost always be exempted from the requirements of the ordinance; site plan or subdivision applications would trigger compliance.

Open to the public:

Bill Holmes, 10 Washington St., was provided with time limit and pollutant source information by Engineer Ferriero.

Raymond Whitlock, Crescent Ave., questioned the impact of the ordinance on underground oil tanks; Engineer Ferriero advised there would be no impact unless there was a subdivision application.

Ivan Taylor, Lemoire Circle, questioned the source for defining the three tiers which was addressed by Engineer Ferriero. Mr. Taylor questioned whether the ordinance was defensible against developers. Mayor Morren and Attorney Cruz provided an overview of the ordinance as previously approved by the DEP and the process followed by other municipalities in adopting a similar ordinance to include Montgomery Township. Attorney Cruz offered his opinion that the ordinance has legal standing.

Philip Hayden, 38 Washington St., requested clarification on the sanitary sewer line and pollutant sources and was provided with same by Engineer Ferriero. Mr. Hayden suggested that the ordinance should specify the administrative authority, i.e. Planning Board, Board of Health. Mr. Hayden advised that the only developable lands left within the Borough are owned by the Haydens and Scasseras and questioned the impact on development of same. Engineer Ferriero advised that development of same can be done within the limits of the ordinance. In response to Mr. Hayden's suggestion to include a tax map overlay on the Well Head Ordinance Area Map, he was advised that it would be cost prohibitive and the tax map is not a surveyed map.

John Hedberg, 5 Princeton Ave., owner of the Princeton Business Park, expressed concern with the impact of the ordinance on his business property urging that the industrial language included in the ordinance be less inclusive. Mr. Hedberg also expressed his displeasure with not having been able to review the map prior to the hearing. Mr. Hedberg was advised that any changes made to his property that would require a building or zoning permit would not trigger regulations of the ordinance; only changes that would require land use approval. In addition, his property would only be affected if the boundaries of the regulated areas are changed but the Borough would be obligated to advise him of any proposed changes prior to making same.

Bill O'Brien, resident, questioned the impact on a sewer line break and was advised there would be no impact unless the change in sewer line was as a result of a land use application.

Nan Agar, 304 Knoll Way, sent letter dated 12/12/06 in support of the ordinance copy of which was distributed to Mayor and Council.

Motion was made by Griner with a second by Zimmerman to close the public hearing. Motion carried on roll call vote – all ayes. Motion to adopt the ordinance was made by Griner with a second by Zimmerman. Motion carried on roll call vote – all ayes.

Public Hearing: Ordinance #10, 2006 – ORDINANCE AMENDING ORDINANCE NO. 4, 2006, TITLED, 'AN ORDINANCE AMENDING AND SUPPLEMENTING ARTICLE 9, TITLED "DEVELOPMENT FEES SECTION", SECTIONS 902 AND 903, TITLED, "BOROUGH OF ROCKY HILL DEVELOPMENT REGULATIONS ORDINANCE." The ordinance (as filed in the Borough Clerk's Office) was read by title. Proofs of publication and service were provided by the Borough Clerk and found to be in order by Attorney Cruz. Notice was received from Planning Board Chairman Charles Pihokken stating that the Planning Board has reviewed said ordinance finding same to be consistent with the Master Plan. Attorney Cruz provided a summary of the ordinance to include non-substantive changes as recommended by COAH.

The hearing was opened to the public for comments:

Phil Hayden, 38 Washington St., was provided with information pertaining to the use of the funds generated by development fees by Attorney Cruz.

Cliff Moore, Skillman Ave., was provided with information regarding the accessory structures by Attorney Cruz.

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Susan Bristol, 104 Washington St., was provided with information on affordable housing obligation responsibility to the Schafer/Pulte project by Attorney Cruz.

John Hedberg, Princeton Business Park, was provided with information on the impact of expansion of usable area as it relates to these fees by Attorney Cruz.

Motion to close the public hearing was made by Zimmerman with a second by Witt. Motion carried on roll call vote – all ayes; White-abstain.

Motion to adopt the ordinance with the non-substantive changes was made by Witt with a second by Zimmerman. Motion carried on roll call vote – all ayes; White-abstain.

(Brief recess at 10:00 PM)

Public Hearing: Ordinance #11, 2006 – AN ORDINANCE AMENDING AND SUPPLEMENTING ARTICLE 6, TITLED, “DESIGN AND PERFORMANCE STANDARDS”, SECTIONS 610, 617, 632, 637, AND 639, OF THE BOROUGH OF ROCKY HILL DEVELOPMENT REGULATIONS ORDINANCE - The ordinance (as filed in the Borough Clerk’s Office) was read by title. Proofs of publication and service were provided by the Borough Clerk and found to be in order by Attorney Cruz. Notice was received from Planning Board Chairman Charles Pihokken stating that the Planning Board has reviewed said ordinance finding same to be consistent with the Master Plan. The hearing was opened to the floor for comments/questions. Hearing none, motion to close the hearing to the public was made by Zimmerman with a second by Griner. Motion carried on roll call vote – all ayes. Motion to adopt the ordinance as presented was made by Zimmerman with a second by Griner. Motion carried on roll call vote – all ayes.

Resolution of Approval/Developer’s Agreement – Pulte Homes – Condition of Approval –
No action taken at this time; carried.

Resolution of Approval – Transfer of Funds within Account Appropriations – Motion was made by Batchelder with a second by Witt authorizing the transfer of \$2,000.00 from Legal O.E. to Planning Board O.E. Motion carried on roll call vote – all ayes.

Resolution of Approval – Cancellation of Unexpended Balances from 2006 Budget – Motion was made by Batchelder with a second by Witt for the cancellation of unexpended balances in the amount of \$52,500 from the 2006 budget. Motion carried on roll call vote – all ayes; White-abstain.

COMMUNICATIONS

Communications as listed on the agenda were disseminated and/or ordered filed.

UNFINISHED BUSINESS

Resolution of Approval – Owner’s Consent Allowing the ARC Group Home to Apply to the Planning Board for Site Plan Approval - Resolution presented authorizes owner’s consent (Borough) to the ARC Group to apply to the Planning Board for Site Plan Approval and any related variances, for six (6) parking spaces, as recommended by the Borough Engineer. The Borough is willing to lease the property to the ARC Group Home at a nominal fee and said consent is conditioned upon approval of an authorizing Ordinance for the lease of the property. Motion was made by Zimmerman with a second by Griner to adopt the resolution. Motion carried on roll call vote – all ayes; White-abstain.

Resolution of Approval – Authorizing Change Order for Princeton Ave. Sidewalks Project – Motion was made by Witt with a second by Griner to adopt resolution authorizing expenditure of funds in the amount of \$700.00 consistent with accompanying change order. Motion carried on roll call vote – all ayes; White-abstain.

Resolution of Approval – Authorizing Change Order for Montgomery Ave. Improvements Project – Motion was made by Witt with a second by Zimmerman to adopt resolution authorizing expenditure of funds in the amount of \$5312.00 consistent with accompanying change order. Motion carried on roll call vote – all ayes; White-abstain.

Resolution of Approval – Authorizing Expenditure of Funds – Recreation Shelter Project – Authorization for the expenditure of funds was requested for additional compensation to the contractor as recommended by Engineer Tanner. Councilman Batchelder requested the record reflect that grant monies were used for this project, a proposal was to be given to Borough Council as to how the funds from the grant would be spent, and a total of \$39,081 was spent on this project. Motion was made by Zimmerman with a second by Witt for the adoption of the resolution and expenditure of funds in the amount of \$3533.17. Roll call: Batchelder-nay, Griner-aye, Uhrik-nay, White-abstain, Witt-aye, Zimmerman-aye. Motion carried.

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Authorization for Expenditure of Funds – Councilman Griner requested consideration be given to the expenditure of funds in the amount of \$1135.48 from Emergency Management O.E. for use by the Rocky Hill Rescue Squad for the recent purchase of a rescue boat. Confirmation of availability of funds being made, motion was made by Griner for authorization of said expenditure with a second by Witt. Motion carried on roll call vote – all ayes.

NEW BUSINESS:

Proposal for Repair of Boiler at Borough Hall – Proposal submitted by Valley Oil for the installation of a state-mandated second high limit control on existing boiler in the amount of \$815.00. Confirmation of availability of funds from Buildings and Grounds O.E. was provided by Deputy Clerk Whitlock. Motion was made by Witt with a second by Zimmerman to authorize the expenditure of funds and state-mandated repair. Motion carried on roll call vote – all ayes.

No Parking Signs – Fire Department – Councilman Uhrik advised that one sign has been installed; one pending installation. Councilman Griner will contact South Bound Brook Police and NJSP regarding enforcement. Recommendation has been made that a Title 39 Motor Vehicle ordinance be adopted for enforcement purposes.

Appreciation was extended by Council to **Mayor Morren and Councilwoman Uhrik** for their dedication and service to the Borough.

PUBLIC COMMENT

Peggy Harris, resident, was provided with an explanation of correspondence listed under Communications from Selective Insurance Company, Re: Claimed filed – Rocky Hill Citizens for Responsible Growth, et al.

Hearing no other comments/questions, the floor was closed.

ADJOURNMENT:

Motion to adjourn the meeting at 10:30 PM was made by Batchelder with a second by Witt. Motion carried on voice vote – all ayes.

Respectfully submitted:

Donna M. Griffiths, RMC
Borough Clerk